REMARKS

Applicants respectfully request reconsideration of this application as amended.

Claims 1, 21 and 31-36 have been amended. Claims 14-20 and 28-30 have been

cancelled without prejudice. No new claims have been added. Therefore, claims 1-13,

21-27 and 31-36 are presented for examination.

35 U.S.C. § 101 Rejection

Claims 31-36 are rejected under 35 U.S.C. §101 because the claimed invention is

directed to non-statutory subject matter because the claimed is directed to the functions

for determining the flow control priority level and generating a control frame includes the

flow priority level without forwarding the control frame onto the network.

35 U.S.C. § 103 Rejection

Claims 1-27 and 31-36 are rejected under 35 U.S.C. §103(a) as being

unpatentable over Williams, et al., U.S. Patent No. 6,957,269 ("Williams") in view of

Lee, et al., U.S. Patent No. 6,957,269 ("Lee").

Claim 1, as amended, recites:

> A method comprising:
> identifying a receive capability associated with one or more priority levels
> of Ethernet traffic for a network device by scanning a plurality of
> receive buffers to determine whether content in the buffers has
> reached or exceeded a predetermined threshold;
> if the content in the buffer has reached or exceeded a predetermined
> threshold, identifying a flow control priority level that is
> oversubscribed based on monitoring one or more of a class-of-
> service, a type-of-service, a quality-of-service, and a time
> sensitivity of the Ethernet traffic, wherein the flow control priority
> level denotes an identified priority level above and/or below which
> the network device is able to receive Ethernet traffic; and
> generating a control message including the flow control priority level, the
> flow control priority level to cause throttling of Ethernet traffic
> from network devices receiving the control message.
> (emphasis added)

Applicants respectfully disagree with the Examiner's characterization of the references and the pending claims and maintain their remarks submitted in responses to previous office actions; however, to expedite issuance of this case, Applicants propose new amendments to the claims and the following remarks.

Williams discloses "[a] network device that controls the communication of data frames between stations receive[d] data frames having different priorities." (Abstract) Williams further discloses that the network device includes "output control queues . . . [that] include *multiple priority queues for frames having different level of priority.*" (col. 5, lines 34-38; emphasis added) Williams further modifies the standard MAC control to include a "priority field . . . to advantageously enable . . . selectively suspend[ing] data transmissions." (col. 7, lines 57-58) Williams further discloses that a "priority field may indicate that the receiving station is to suspend transmitting low priority frames." (col. 9, lines 34-35).

Williams discloses "output control queues may include a *FIFO-type output queue* corresponding to each of the transmit modules in the transmitter. Each of the output queues may include *multiple priority queues for frames having different levels of priority.*" (col. 5, lines 34-38; emphasis added). Williams discloses :[e]ach queue associated with each respective port may be further subdivided into *a low priority queue and a high priority queue . . . high and low priority queues*, respectively, store frame forwarding information associated with high and low priority frames received by the multiport switch." (col. 8, lines 23-29; emphasis added).

Lee discloses a "receiving node [that] *monitors the priority levels of arriving and departing packets*, and increasing of priority levels of previously stored packets, and thus keeps track of the total space in [a] buffer at [the receiving node] occupied by packets of

various priority levels." (col. 5, lines 62-66).

In contrast, claim 1, as amended, in pertinent part, recites "identifying a receive capability associated with one or more priority levels of Ethernet traffic for a network device by scanning a plurality of receive buffers to determine whether content in the buffers has reached or exceeded a predetermined threshold; if the content in the buffer has reached or exceeded a predetermined threshold, identifying a flow control priority level that is oversubscribed based on monitoring one or more of a class-of-service, a type-of-service, a quality-of-service, and a time sensitivity of the Ethernet traffic" (emphasis added).

Williams and Lee, neither individually nor when combined, reach or reasonably suggest at least these features of claim 1. Accordingly, Applicants respectfully request that the rejection of claim 1 and its dependent claims be withdrawn.

Claims 14, 21 and 31 include limitations similar to those of claim 1. Accordingly, Applicants respectfully request that the rejection of claims 14 and 21 and their dependent claims be withdrawn.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.
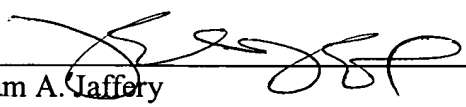
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: March 22, 2007

Aslam A. Jaffery
Reg. No. 51,841

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1030
(303) 740-1980